

SENATE JOURNAL

SEVENTY-FIRST LEGISLATURE — THIRD CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIRST DAY

(Tuesday, February 27, 1990)

In obedience to the Proclamation of the Honorable William P. Clements, Jr., Governor of the State of Texas, the Senate met in the Senate Chamber of the State Capitol at Austin, Texas, on the 27th day of February, 1990, at 2:00 p.m. and was called to order by the Honorable William P. Hobby, Lieutenant Governor and President of the Senate.

The President directed the Secretary of the Senate to call the roll of the Senate.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Ellis, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

The President announced a quorum of the Senate present.

The Reverend C. L. Jackson, Pleasant Grove Baptist Church, Houston, offered the invocation as follows:

Almighty God, our cry is for Thy love. Thou hast made known Thy love in Jesus Christ our Lord. Without Thy love we cannot live; Thy love gives us light and life and hope and joy. You are love. May we be like You; may we live in You through Jesus Christ our Saviour. Help us to know that we live and have our being in You; take out of us all unworthy self-trust, and may we live by faith and not by sight: Lord, increase our faith.

Thou knowest the burdens we have to bear. We have a burden of education. In our society young and old are illiterate. Let us not cast them aside, but help us to be patient enough to include them and teach them. We have a burden for judicial reforms. Reforms that are impartial to both rich and poor alike. Reforms that will create an atmosphere, that Texas is a place for every person. We have a burden for fair financing. Give us compassion for our brothers and sisters. Let us turn our attention and economic encouragement to the homeless and hungry.

We weep at our failures. Thou knowest all the tears we shed in secret; Thou knowest our hearts and lives altogether: minister unto us according to our need. Give us confidence that when this present day shall cease our sun of life shall arise upon the clime of heaven. Amen.

PROCLAMATION FROM THE GOVERNOR

The following Proclamation from the Governor was read and was filed with the Secretary of the Senate.

PROCLAMATION

41-2372

Under the provisions of Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby call a special session of the 71st Legislature, to be convened in the City of Austin commencing at 2:00 p.m. the 27th day of February, 1990, for the following purposes:

(1) to consider legislation to establish and make suitable provision for the support and maintenance of an efficient system of public free schools; and

(2) to consider legislation relating to the system for electing state appellate court judges, state district court judges and statutory county court judges.

The Secretary of State will take notice of this action and will notify the members of the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 9th day of January, 1990.

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

/s/George S. Bayoud, Jr.
George S. Bayoud, Jr.
Secretary of State

**THE STATE OF TEXAS
STATEMENT OF CANVASS FOR THE SPECIAL ELECTION FOR
STATE SENATOR, DISTRICT 13
HARRIS AND FORT BEND COUNTIES
HELD ON FEBRUARY 13, 1990**

I, WILLIAM P. CLEMENTS, JR., Governor of the State of Texas, in accordance with Section 67.010, Texas Election Code, HEREBY CERTIFY, that I, acting pursuant to Section 203.012, Texas Election Code, on the 16th day of February, 1990, did open, count, and tabulate the returns of the special election for State Senator, District 13, held in part of Harris and Fort Bend counties, Texas, to fill the unexpired term of the Honorable Craig Washington. The aforesaid election was held on February 13, 1990, and the county clerks from Harris and Fort Bend counties have reported the votes cast on that date to the Secretary of State.

I FURTHER CERTIFY that the following is a true and correct statement of the votes cast for the candidates whose names appear below, as they appeared on the official election returns made to, and now on file with, the Secretary of State.

Rodney Ellis	2166
Write-In Candidates	
Lee Arthur Demas	34
Elizabeth Spates	62
Dorothy Caram	41
Fraga	3
William Batts	3
Joseph Leatherwood	3
Peter Pan	2
George Strake, Jr.	2

Debra Danburg	2
Lary Evans	2
Roland Bourgeois	2
Ron Chapman	2
Albert J. Mauzy II	1
Marcel S. Theriot	1
Betty Burlsman	1
George Strait	1
Michael G. Wirtz	1
Harvey Milk	1
Jimmy Jackson	1
R. C. (Cotton) Andrews	1
Ester Williams	1
Ed Chen	1
F. R. Alfred	1
David Duke	1
Harold Dutton	1
Louis Dugas, Jr.	1
Demas Edwards	1
Fred D. Dillard	1
George J. Collins	1
Andy Smith	1
J. Warner Jones	1
Eugene Harrington	1
Boris Yeltsin	1
Joe Dumas	1
Bill T. Swanson	1
Curtis W. McDonald	1

IN TESTIMONY WHEREOF, I have hereunto affixed my signature and caused to be impressed hereon the Great Seal of the State of Texas, at Austin, on this the 16th day of February, 1990.

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

Attest:

/s/George S. Bayoud, Jr.
George S. Bayoud, Jr.
Secretary of State

IN THE NAME AND BY THE AUTHORITY OF
THE STATE OF TEXAS

THIS IS TO CERTIFY, That at a special election held on
Tuesday, February 13, A.D., 1990

Rodney Ellis
was duly elected
State Senator, District 13
Unexpired Term

In testimony whereof, I have hereunto
signed my name and caused the Seal of

the State to be affixed at the City of Austin, this the 16th day of February, A.D., 1990.

/s/W. P. Clements, Jr.
Governor of Texas

Attest:

/s/George S. Bayoud, Jr.
Secretary of State

NEWLY ELECTED SENATOR INTRODUCED

The President introduced to the Members of the Senate and assembled guests Senator Rodney Ellis of Houston.

Senator Ellis, elected to fill the vacancy created by former Senator Craig Washington's election to Congress, was welcomed as a Member of the Senate.

MOTION IN WRITING

Senator Brooks offered the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) Members to notify the House of Representatives that the Senate is organized and ready for business.

The Motion in Writing was read and was adopted viva voce vote.

Accordingly, the President appointed the following Committee to Notify the House of Representatives: Senators Armbrister, Barrientos, Johnson, McFarland and Whitmire.

MOTION IN WRITING

Senator Brooks offered the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) Members to notify the Governor that the Senate is organized and ready for business.

The Motion in Writing was read and was adopted viva voce vote.

Accordingly, the President appointed the following Committee to Notify the Governor: Senators Caperton, Ellis, Haley, Henderson and Leedom.

STANDING COMMITTEE APPOINTMENTS

The President announced that Senator Ellis would be appointed to serve on the following Standing Committees for the 3rd Called Session, 71st Legislature:

Criminal Justice
Intergovernmental Relations
 Subcommittee on Urban Affairs
State Affairs
 Subcommittee on Elections

SENATE RESOLUTION 1 (Caucus Report)

Senator Brooks offered the following resolution:

Honorable William P. Hobby
Lieutenant Governor
Senate of Texas
Austin, Texas

Sir:

At a caucus held in the office of the Senate attended by 30 Members of the Senate, the following recommendations were made, to wit:

BE IT RESOLVED by the Senate, That:

The following officers were elected to serve for the 71st Legislature, 3rd Called Session, at the will of the Senate:

Secretary of the Senate - Betty King
Sergeant-at-Arms - Carleton Turner
Doorkeeper - James Morris
Calendar Clerk - Kay Hughes
Enrolling Clerk - Patsy Spaw
Journal Clerk - Margrette Vollers

All officers and employees appointed by this caucus shall hold their office of employment for the duration of the 71st Legislature, 3rd Called Session.

It is recommended that the Lieutenant Governor and the Secretary of the Senate each be permitted to name secretarial staff and assistants at salaries designated by the Lieutenant Governor and the Administration Committee respectively. The Parliamentarian, Steve Dial, is to be named by the Lieutenant Governor.

It is further recommended that the Administration Committee appoint a sufficient number of custodians, messengers, elevator operators, porters, and other employees as may be necessary. The Lieutenant Governor is authorized to designate any Member of the Senate or Senate staff to attend official meetings of national governmental organizations during the 71st Legislature, 3rd Called Session, while in session. Actual and necessary expenses are hereby authorized as reimbursement for such trips.

It is further recommended that each Senator shall be permitted a maximum payroll of \$15,500 per month for secretarial and other office staff and for intrastate travel expenses for staff employees. Any unexpended portion of this amount may be carried forward from month to month until the end of the fiscal year. In order to accrue vacation leave, compensatory/overtime leave, or sick leave, employees of Members must file monthly time sheets with the Senate Personnel Office by the 10th of the month following the month in which work was performed. Employees of Members and committees must use compensatory/overtime accrued in a given month by the end of the same month of the following year. Compensatory/overtime accrued prior to January 1, 1990, will not be carried forward after January 1, 1991. No compensatory/overtime will be paid at either the end of the fiscal year or at an employee's termination.

The Lieutenant Governor, Senators, and the Secretary of the Senate are hereby fully authorized and empowered to use any assistant Sergeant-at-Arms and all other necessary employees for any and all services needed in and about the Senate.

It is further recommended that the Lieutenant Governor, each Senator, and the Secretary of the Senate be permitted to subscribe for newspapers as necessary to be paid out of the contingent fund and be allowed the stationery and postage needed by them respectively, and expenses incurred in transmitting and receiving telephone and telegraph messages and express charges as may be actually necessary in the discharge of their official duties, said expenses to be paid out of the contingent fund.

It is further recommended that not to exceed 700 journals be printed, all of which shall be prorated among the Senators and Lieutenant Governor, except that 175 journals shall be furnished the members of the House.

It is further recommended that the Legislative Reference Library be furnished 60 copies of the daily journal.

It is further recommended that all salaries and expenses herein authorized to be incurred and paid for shall be paid out of the per diem and contingent expense fund of the 71st Legislature as follows: The Senate shall request the State Comptroller of Public Accounts to issue general revenue warrants for the payment of the employees of the Lieutenant Governor's office, the Lieutenant Governor, Members of the Senate, employees of the Senate committees, and employees of the Senate, except as provided in Section 20 of the Legislative Reorganization Act (Article 5429f, Vernon's Texas Civil Statutes), upon presentation of the payroll account signed by the Chairman of the Administration Committee and the Secretary of the Senate; and for the payment of materials, supplies, and expenses of the Senate, including travel expenses for Members and employees, upon vouchers signed by the Chairman of the Senate Committee on Administration and the Secretary of the Senate.

It is further recommended that no employee of the Senate shall, during the time employed by the Senate, furnish to any person, firm, or corporation any information other than general information furnished the public pertaining to the Senate, and the employee shall not without permission receive any compensation from any person, firm, or corporation during employment by the Senate, and any employee found guilty of violating this provision shall be immediately discharged.

All employees, except those responsible directly to the Lieutenant Governor, Members of the Senate, Secretary of the Senate, committee, or to the head of a department, shall report for duty at 8 a.m. and 1:00 p.m. each day to the Sergeant-at-Arms of the Senate, except part-time employees, who shall report at the place and time directed by the Sergeant-at-Arms, and none of such employees shall be paid for the days they are absent from the Senate, unless excused by the Sergeant-at-Arms.

It is further recommended that the chairman of each standing committee shall have authority to employ such additional employees of his own selection as may be needed by said committee, said employees to receive the same compensation paid similar positions as herein fixed, and to discharge the duties of said standing committee, subject to the approval of the Administration Committee.

It is further recommended that no employee of the Senate, except one whose official duties require the employee to work upon the floor of the Senate, shall have access to the floor unless that employee shall have been requested by a Senator, the Lieutenant Governor, or the Secretary of the Senate to come on the floor for some official duty, after the performance of which the employee shall immediately leave the floor of the Senate. The Sergeant-at-Arms is specifically ordered to see that this provision is carried out.

Only those who have privileges of the floor during the session of the Senate shall be permitted on the Senate floor for a period of 30 minutes prior to the time the Senate convenes and 30 minutes after the Senate adjourns. The Sergeant-at-Arms is instructed to enforce this rule and to permit only those having the privileges of the floor to enter or remain on the Senate floor during such 30-minute periods.

Respectfully submitted,

/s/Chet Brooks

Chairman of the Caucus

/s/O. H. Harris
Secretary of the Caucus

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 4

Senator Parker offered the following resolution:

WHEREAS, An act of heroism in which a man will risk his life to save that of another is truly worthy of recognition, and the ultimate sacrifice that John Kelly Aiena made to help a fellowman went far beyond actions taken by or even considered by many; and

WHEREAS, On May 26, 1989, Mr. Aiena was fishing from the east breakwater at the entrance to the Pleasure Island marina when he saw a man who was fishing on the opposite breakwater fall into the water; and

WHEREAS, Realizing that he was witnessing a drowning, this courageous individual immediately entered the water to assist; he reached the man only to slip below the surface before assistance could arrive; and

WHEREAS, The waters he gave his life in are United States waters and, at the request of the Commanding Officer, Marine Safety Office, Port Arthur, Texas, Mr. John Aiena posthumously received the Gold Lifesaving Medal for his evidenced daring and heroic attempt to rescue a drowning man; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, 3rd Called Session, hereby recognize the valiant efforts and unselfish actions of John K. Aiena which were in keeping with the highest traditions of humanitarian service; and, be it further

RESOLVED, That the Senate extend sincere condolences to the bereaved friends and family of Mr. Aiena; and, be it further

RESOLVED, That copies of this Resolution be prepared for those held dear by John Kelly Aiena as a token of high regard for his actions and extreme sadness for the profound loss, and that when the Senate adjourns this day, it do so in memory of Mr. Aiena.

The resolution was read and was adopted by a rising vote of the Senate.

GUEST PRESENTED

At the President's request, Senator Parker escorted Mrs. Aiena to the President's Rostrum.

The President presented to Mrs. Aiena an enrolled copy of S.R. 4.

GUEST PRESENTED

Senator Barrientos was recognized and introduced his guest Glynn W. Gordon, Office of Contract Compliance, City of Atlanta, Atlanta, Georgia.

Mr. Gordon was welcomed by the Senate.

SENATE RESOLUTION 5

Senator Harris offered the following resolution:

S.R. 5, Joining the citizens of Austin in bidding adieu to John Indrieri, General Manager of the Four Seasons Hotel of Austin.

The resolution was read and was adopted viva voce vote.

MESSAGE FROM THE TEXAS EDUCATION AGENCY

The following Message from the Texas Education Agency was read and was referred to the Committee on Nominations.

Texas Education Agency
Austin, Texas 78701-1494

January 15, 1990

Mrs. Betty King, Secretary
Texas Senate
Capitol Building, Room 218
Austin, Texas 78701

Dear Mrs. King:

During its meeting on Saturday, January 13, 1990, the State Board of Education reappointed the following person to the board of trustees of the Teacher Retirement System of Texas, pursuant to Texas Revised Civil Statutes, Title 110B, 35.003:

Mr. George M. Crowson, Superintendent
Harris County Department of Education
6300 Irvington Boulevard
Houston, Texas 77022

This information is submitted to you for transmittal to the Senate for confirmation. If you require additional information, please let me know.

Sincerely,

/s/W. N. Kirby

W. N. Kirby

Commissioner of Education

SENATE NOTIFIED

A Committee from the House of Representatives appeared at the Bar of the Senate and Representative Glossbrenner for the Committee notified the President and Members of the Senate that the House was organized and ready to transact business.

GOVERNOR NOTIFIED

The Committee to Notify the Governor that the Senate was organized and ready to transact business appeared at the Bar of the Senate and Senator Caperton for the Committee notified the President and Members of the Senate that the Committee had performed the duty assigned it.

The President discharged the Committee.

HOUSE OF REPRESENTATIVES NOTIFIED

The Committee to Notify the House of Representatives that the Senate was organized and ready to transact business appeared at the Bar of the Senate and Senator Armbrister for the Committee notified the President and Members of the Senate that the Committee had performed the duty assigned it.

The President discharged the Committee.

GUEST PRESENTED

Senator Harris was recognized and presented Dr. William (Bill) Ross of Carrollton.

Dr. Ross, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was welcomed by the Senate and received an expression of gratitude for his service today.

**ELECTION OF PRESIDENT PRO TEMPORE
THIRD CALLED SESSION, SEVENTY-FIRST LEGISLATURE**

The President announced that the next order of business was the election of the President Pro Tempore, 3rd Called Session, 71st Legislature.

Senator Brooks placed in nomination the name of Senator Hugh Parmer of Fort Worth as the President Pro Tempore of the Senate, 3rd Called Session, 71st Legislature.

Senators Truan, Caperton, Santiesteban, Leedom, Johnson, Whitmire, Edwards, Parker, Uribe, McFarland, Glasgow, Montford, Barrientos, Green, Sims and Dickson seconded the nomination.

Senator Parmer was elected President Pro Tempore for the 3rd Called Session of the 71st Legislature by the following vote: Yeas 29, Nays 0, Present-not voting, 2.

Present-not voting: Krier, Parmer.

The President announced the appointment of the following Members to escort Senator Parmer and his family to the Rostrum: Senators Brooks, Brown, Harris, Leedom, Parker, Santiesteban, Truan and Uribe.

The President administered the Constitutional Oath of Office to Senator Parmer.

Senator Parmer introduced his wife, Evelyn, his daughter, Betsy, and his son, Travis, to the Members of the Senate and expressed his genuine pleasure in having the honor to serve as the Senate's President Pro Tempore for the 3rd Called Session.

MESSAGE FROM THE HOUSE

House Chamber
February 27, 1990

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 14, Inviting U.S. Secretary of Education Dr. Lauro F. Cavazos to address a joint session.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RESOLUTION 2

Senator Krier offered the following resolution:

S.R. 2, Declaring May, 1990, as Karate Kids of Texas Just Say No To Drugs Month.

The resolution was read and was adopted viva voce vote.

GUESTS PRESENTED

Senator Krier was recognized and introduced a group of young people representing the Karate Kids of Texas to the Senate.

These guests were welcomed.

HOUSE CONCURRENT RESOLUTION 14

The President laid before the Senate the following resolution:

H.C.R. 14, Inviting United States Secretary of Education Dr. Lauro F. Cavazos to address the Members of the Texas Legislature on March 6, 1990, at 11:00 a.m.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The President announced the next order of business was the first reading and referral of bills and resolutions.

POINT OF ORDER

Senator Parker raised the point of order that only those bills containing subject matter within the Governor's Call be read first time and referred.

The President sustained the point of order.

The following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.J.R. 1 by Haley, Glasgow Committee of Whole Senate
Proposing a constitutional amendment providing for the issuance of general obligation bonds for assisting school districts in acquiring, building and renovating school facilities.

S.J.R. 2 by Johnson, Ellis, Green Committee of Whole Senate
Proposing a constitutional amendment requiring the legislature to provide for the election of certain district judges from single-member judicial divisions.

S.J.R. 3 by Uribe Committee of Whole Senate
Proposing a constitutional amendment relating to the establishment of a State lottery, the revenues of which may be used only for public education.

S.J.R. 4 by Uribe Committee of Whole Senate
Proposing a constitutional amendment relating to the establishment of a State lottery, the revenues of which may be used only for public purposes.

S.B. 1 by Haley, Glasgow Committee of Whole Senate
Relating to the computation and distribution of State educational aid to school districts, to the use of certain bond proceeds for assisting school districts in the acquisition, construction, renovation and improvement of instructional facilities, making an appropriation, and declaring an emergency.

S.B. 2 by Johnson, Barrientos Committee of Whole Senate
Ellis, Truan, Whitmire
Relating to abolishing certain district courts, creating additional district courts, and
the election of district court judges in certain counties.

S.B. 3 by Carriker Committee of Whole Senate
Relating to the career ladder for public school teachers.

S.B. 9 by Uribe, Truan
Relating to public school taxes and finance.

S.B. 14 by Uribe Committee of Whole Senate
Relating to the creation, administration, powers, duties, and financing of the Texas
public school employees group insurance program; making an appropriation.

S.B. 20 by Santiesteban
Relating to public school finance.

Committee of Whole Senate

CO-AUTHOR OF SENATE BILL 6

On motion of Senator Dickson and by unanimous consent, Senator Edwards will be shown as Co-author of S.B. 6.

CO-AUTHOR OF SENATE BILL 9

On motion of Senator Uribe and by unanimous consent, Senator Truan will be shown as Co-author of S.B. 9.

COMMITTEE OF THE WHOLE SENATE

On motion of Senator Brooks and by unanimous consent, the Senate resolved into a Committee of the Whole Senate at 3:02 p.m.

The President appointed Senator Brooks Chairman of the Committee of the Whole Senate.

IN LEGISLATIVE SESSION

The Senate met as In Legislative Session at 4:25 p.m. and was called to order by the President.

CONGRATULATORY RESOLUTIONS

S.R. 3 - By Lyon: Paying tribute to Harold Gouge on the occasion of his retirement from the Mesquite Police Department.

S.R. 6 - By Green, Whitmire: Commending Judge David Patronella for the services he has rendered for the citizens of Texas.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 4:26 p.m. adjourned until 2:00 p.m. tomorrow.

SECOND DAY

(Wednesday, February 28, 1990)

The Senate met at 2:00 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Haley, Harris, Henderson, Johnson, Krier, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Uribe, Zaffirini.

Absent-excused: Caperton, Edwards, Green, Leedom, Lyon, McFarland, Truan, Whitmire.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Heavenly Father, we give thanks this afternoon for life's blessings, and with gratitude we acknowledge we have only what has been given. May You in Your wisdom bless our activities today, and we pray Your presence will be felt as these